

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

David Lamont Brown,)	C/A No.: 9:07-603-JFA-GCK
)	
Plaintiff,)	
vs.)	ORDER
)	
Major Phillip C. Anderson; Captain Sharon)	
Middleton; Lieutenant Linda Butler;)	
Sheriff Chad Cox; Sheriff Dan Wideman,)	
)	
Defendants.)	
_____)	

The *pro se* plaintiff, David Lamont Brown, was a pretrial detainee at the Greenwood County Detention Center during the time of the matters alleged in his complaint. He initiated this action pursuant to 42 U.S.C. § 1983 contending that the defendants denied him equal protection and access to the courts when they failed to transport the defendant to a family court appearance. The plaintiff seeks compensatory and punitive damages.

The Magistrate Judge assigned to this action¹ has prepared a Report and Recommendation wherein he suggests that this court should grant defendants' motion for

¹ The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

summary judgment.² The Magistrate Judge opines that the plaintiff does not have a constitutional right to litigate a civil claim that is unrelated to his confinement, which does not directly or collaterally attack his sentence, and that plaintiff has thus failed to state a claim of denial of access to the courts.

The Magistrate Judge further recommends that the defendants are not subject to suit in their official capacities under § 1983 and they are entitled to qualified immunity in their individual capacities. Finally, the Magistrate Judge concludes that to the extent plaintiff's complaint can be construed to set forth any claims under state law, that the court should decline to exercise supplemental jurisdiction over the claims. The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation.

The plaintiff was advised of his right to file objections to the Report and Recommendation, which was entered on the docket on September 12, 2007. He did not file objections³ to the Report.

After a careful review of the record, the applicable law, and the Report and

² An order was issued pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975) notifying plaintiff of the summary dismissal procedure and possible consequences if he failed to adequately respond to the motion for summary judgment. Plaintiff did respond to the motion.

³ Under 28 U.S.C. § 636(b)(1), the district court is obligated to conduct a *de novo* review of every portion of the Magistrate Judge's Report to which objections have been filed. The court reviews the Report only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005). *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to timely file specific written objections to the Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985).

Recommendation, the court finds the Magistrate Judge's recommendation to be proper. Accordingly, the Report and Recommendation is incorporated herein by reference and defendants' motion for summary judgment is granted in its entirety. The court will also count this action as a "strike" against plaintiff under 28 U.S.C. § 1915A.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "Joseph F. Anderson, Jr." in a cursive script.

Joseph F. Anderson, Jr.
United States District Judge

January 11, 2008
Columbia, South Carolina